

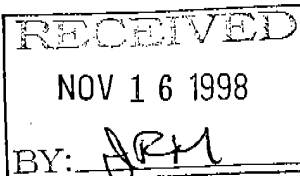
**Brendan R. Cummings**

**Attorney at Law**

PO Box 4944

Berkeley, CA 94704

(510) 848-5486



November 15, 1998

**Bruce Halstead**

USFWS

1125 16<sup>th</sup> Street, Room 209

Arcata, CA 95521-5582

**John Munn**

California Department of Forestry

1416 Ninth Street

Sacramento, CA 95814

Re: Pacific Lumber's Criminal Conduct as Grounds for Denial of Permits PRT-828950 and 1157 and SYP 96-002

Dear Mr. Halstead and Mr. Munn:

I am writing on behalf of the Environmental Protection Information Center (EPIC) and the Sierra Club requesting that you deny the Pacific Lumber Company's (PL's) application for an Incidental Take Permit (PRT-828950 and 1157) on the grounds that PL does not meet the issuance criteria of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service as codified at 50 C.F.R. §§ 13.21 and 220.21 and 15 C.F.R. § 904.301.

I-BRC-  
4

All permits issued by the Fish and Wildlife Service must be consistent with the issuance criteria as laid out in 50 C.F.R. Part 13. 50 C.F.R. § 13.21 reads as follows:

(b) Upon receipt of a properly executed application for a permit, the Director shall issue the appropriate permit unless:

(1) The applicant has been assessed a civil penalty or convicted of any criminal provision of any statute or regulation relating to the activity for which the application is filed, if such assessment or conviction evidences a lack of responsibility.

As explained in detail below, PL has sustained criminal convictions relating to its forest practices that demonstrate a "lack of responsibility" and thereby render it ineligible to receive a permit under § 13.21.

PL's criminal logging also necessarily preclude it from receiving a permit from NMFS. NOAA's regulations regarding permit issuance (NMFS is an agency within NOAA) at 15 C.F.R. § 904.301(a) include the following provision:

I-BRC-  
2

The bases for an action to sanction or deny a permit are as follows:

(1) The commission of any offense prohibited by any statute administered by NOAA,

including violation of any regulation promulgated...

NMFS regulations include additional criteria upon which denial of PL's permit is warranted at 50 C.F.R. § 220.21:

I-BRC-  
2  
CON.

(b) The Director shall issue the appropriate permit unless--

...(3) The applicant has failed to demonstrate a valid justification for the permit or a showing of responsibility...

...(5) The Director finds through further inquiry or investigation, or otherwise, that the applicant is not qualified.

As explained below, PL has committed offenses prohibited by statutes administered by NOAA (e.g. the Endangered Species Act) and through its criminal convictions and countless other violations of statutes and regulations has shown that it is "not qualified" and that it has failed to demonstrate "a showing of responsibility" necessary to receive a permit from NMFS.

### **PL's Criminal Logging**

PL has been found violating the Forest Practice Rules (FPRs) well over 300 times since 1995. This includes almost 50 violations so far this year and more than 100 during 1997. In addition to these violations from the California Department of Forestry (CDF), PL has received 10 citations for criminal misdemeanors since 1996. Any claims by PL that such violations are a thing of the past is negated by PL's 5 criminal citations issued in 1998. The CDF issued a conditional operating license to the company for 1998 due to the volume and severity of these violations, and this license was recently suspended due to the continuance of illegal logging operations. PL has also been issued clean up and abatement orders from the Regional Water Quality Control Board, has trespassed and logged on State Park property, has destroyed protected osprey nests, and has been found civilly liable for violating the Endangered Species Act. Individually, any one of these violations could be grounds for permit denial; taken together, these violations mandate that FWS and NMFS deny PL's incidental take permit application. In light of PL's proven inability to lawfully carry out timber harvest operations, granting an incidental take permit to PL would be arbitrary and capricious, in violation of 50 C.F.R. §§ 13.21 and 220.21 and 15 C.F.R. § 904.301.

### **PL's Criminal Convictions**

In July of 1997 PL was found guilty of 5 counts of FPR violations as a result of unlawful operations of THP 1-96-086. As a consequence, PL was placed on probation. On October 14, 1997, while on probation, PL was cited again when they overlogged on THP 1-93-068, but charges were dismissed at CDF's request with no effect on their probation. They were cited again on November 5, 1997 for 3 violations (THP 97-263), and then again on December 8, 1997 for 4 uncorrectable FPR violations (THP 1-95-185). On May 22, 1998, the Court found PL guilty on five of these counts (the other 2 were dismissed because they were carried out by PL's contractors rather than PL itself), and the company's probation was revoked. Judge Miles sentenced PL to 3 years probation in which they would be required to follow the provisions of their Stipulated Agreement for conditional license. PL refused the conditions of probation and paid a \$13,000 fine instead. Related court documents for each of these convictions are attached as Exhibit A.

In July of 1998 PL was charged with 5 misdemeanor violations of the FPRs (THP 96-126). Then in

October of 1998 the were cited three times for numerous uncorrectable violations which occurred on three logging plans. Charges on all four of these cases are currently pending.

In each of the criminal convictions cited above PL was found to have failed to carry out its legal responsibilities as a timber operator in California. Each conviction "evidences a lack of responsibility" under § 13.21 and is sufficient to preclude FWS from issuing an incidental take permit to PL.

### **PL's FPR Violations**

In addition to its criminal convictions and citations, PL has been issued over 300 violations since 1995. PL's violations 1995, 1996, and 1997 are attached as Exhibit B. PL's violations from 1998 are attached as Exhibit C.

### **Water Quality and Sedimentation**

Most of PL's violations were issued because the company failed to take erosion control measures or because operations were conducted in a manner that caused or increased the risk of landslides and mass wasting. Nearly ½ of the violations issued since 1995 have been under § 923 of the FPRs which governs road and landing construction use. These violations were issued due to improper construction or maintenance of roads and landings which threatened to harm or did actually cause harm to water quality.

Here is the approximate break down of violations of section 923 since 1995: 19 issued under § 923.2; 4 under § 923.3; 86 under § 923.4; and 19 under § 923.5. There were 7 issued under § 923.4(k), which requires that "action shall be taken to prevent failures of cut, fill, or sidecast slopes from discharging materials into watercourses or lakes in quantities deleterious to the quality or beneficial uses of water."

In at least 3 instances involving violations of § 923.4(k), CDF noticed problems at the particular area prior to failures occurring and specifically directed PL to take measures to prevent them. In each case PL ignored CDF's requests. One example among many is illustrative: On Dec. 9, 1997, CDF discovered a landslide was causing a fill failure to begin. CDF directed them to hire a geologist and to take action to prevent additional failure. On March 25, 1998, CDF reinspected the area only to find "no action had been taken to prevent the additional failure of this fill. The failure has progressed to the point where the road is no longer passable by vehicles and had been blocked off. A bypass road has been in use, which passes above the failed road. This road is also at risk for failure." (THP 1-96-406) See Exhibit C.

In each of the violations mentioned above, PL's actions or inactions resulted in actual or potential impacts on water quality. Such increased sedimentation as a result of PL's violations is detrimental to the survival and recovery of anadromous fish inhabiting the streams in or downstream from PL's land. Sometimes PL's violations have had impact far more reaching than just on water quality.

On January 1, 1997, a landslide originating on PL land tore through the town of Stafford, destroying 7 homes. The landslide originated in the area of THP 1-91-036. Prior to plan approval, CDF inspector Ernie Rohl expressed major concerns with the proposal to construct layout in the extremely steep, greater than 65% slope areas. Following major contention, PL relented and agreed not to construct the layouts. CDF then approved the plan. PL constructed layouts in the area anyway and

a massive slide resulted. CDF issued PL multiple other violations on that plan:

- § 923.2(p) LTO failed to install waterbreaks on non-permanent road that did not have adequate drainage
- § 923.5(a) LTO "deposited an excessive amount of waste fill on slopes greater than 65%"
- § 923.5(f)(4) Excessive waste fill "extends more than 20 feet downslope & has not been treated to aid soil stability"
- § 1035.3(d) Constructed layout in an excluded area. Failure to comply with THP
- § 914.2(f)(3) Tractor operated on areas shown as a high erosion hazard area
- § 923.4 Corrective work for cleaning ditches on appurtenant road not completed
- § 4585 Failure to submit work completion/stocking report. Debris slide also found
- § 1090.12 Drainage pipe wiped out by debris slide still not replaced after being noted 2 ½ months before
- § 914.6 Waterbreaks not in compliance with contraction standards and spacing
- § 923.4(d) A 12 inch culvert crushed and plugged

The violations issued for THP 1-91-036 are attached as Exhibit D.

PL's violations have also resulted in negative impacts to water quality in the North Fork Elk River. On September 23, 1997, the North Coast Regional Water Quality Control Board issued Cleanup and Abatement Order No. 97-115, "requiring the cleanup and abatement of soil and organic debris which discharged and threatens to discharge to the N. Fk Elk River and its tributaries from timber harvest activities under plan 1-94-360 HUM."... "The degradation was due to the discharge of earthen material and organic debris from multiple landslides observed from aerial and on-the-ground inspections. The Regional Water Board staff observed approximately 1000 feet of Class II stream...which was filled with soil and organic debris. The soil and organic debris extended from the Class II watercourse to the N. Fk Elk River. The landslide debris originated from a midslope truck road used for harvesting timber. Another Class II watercourse tributary to the N. Fk Elk River...was filled with soil and organic debris originating from a failed landing used during timber harvesting." The Abatement Order is attached as Exhibit E.

CDF issued multiple violations on this same THP (1-94-360):

- § 923.5(f) Unstable soil sidecast along landing face on slope >65%.
- § 916.3 Several hundred cubic yards slide into N Fk Elk.
- § 916.4(c) Crossing not pulled, failed.
- § 916.3 Material then allowed to pass into river in amounts damaging to water quality.
- § 923.4(k) 1000 ft long mudflow into N Fk Elk from landing failure at site PL was told to fix.
- § 923.4(k) Slide into a tributary of N Fk Elk along a temporary road.
- § 923.4(k) Another slide into a tributary of N Fk Elk along a temporary road.
- § 916.4(c) Did not remove a temporary culvert per the THP before winter period.
- § 1035.3(d) Inadequate drainage & maintenance caused fill failure. All other work finished 1 year before except road work.
- § 1035.3(d) Killed osprey nest tree; inadequate waterbreaks; notes slide & other places where mitigation did not stop failure.

These violations are attached as Exhibit F.

PL appealed this Abatement Order, and Water Quality subsequently issued Cleanup and Abatement Order No. 98-100 for the N. Fk Elk River (on September 22, 1998), "requiring (PL) to abate the effects of their increased sediment discharges to the N. Fk Elk River on downstream water users." The order stems from the damage that was addressed in Order 97-115, and also, "the discharge of earthen materials and organic debris to the N. Fk Elk River and its tributaries" from 4 other THPs in the N. Fk Elk where 2 slides and 2 road failures were found.

The Abatement Order continues, "Many of the residents indicated significant changes in water quality since 1993...Residents have also reported significant changes in stream morphology including the filling of pools in the stream channel with sediment resulting in increased flood frequency and duration. Long time residents of the N. Fk. Elk River reported that the only historic periods of major flooding over the county bridge occurred during the winters of 1955, 1964, 1974 and 1986. More recently, however, they reported that major floods have been observed during the winters of 1995, 1996 and 1997;"

Water Quality specifically referred to PL's violations as a cause of the excessive sediment discharge. "From Jan 1995 through August, 1998, the CDF issued 51 violations of the Forest Practice Rules Sections 914.2, 914.6, 916.3, 916.4, 916.7, 917.3, 923.1, 923.4, 923.5, 923.6, 923.8, 1035(d) to the dischargers for timber harvest operations within the N. Fk Elk River. These violations of the CA Forest Practice Rules resulted in the discharge and/or threatened discharge of soil to the N. Fk Elk River and its tributaries and are violations and/or threatened violations of the waste discharge prohibitions contained in the Water Quality Control Plan for the N. Coast Region." ... "The discharges described above have caused and permitted excess sediment to enter the N. Fk. Elk River and its tributaries. Excess fine sediment has been shown to detrimentally affect spawning gravel for fish and reducing survival from egg to emergence..."

This Abatement order is attached as Exhibit G. 14 THPs in the N. Fork were found to have violations since 1995.

PL's problems with Water Quality have not been limited to the North Fork Elk River. A Water Quality request for work plan for sediment problems in Freshwater is attached as Exhibit H.

PL's Freshwater Rock Quarry has also been subject to attention from Water Quality. On September 23, 1997 the North Coast Regional Water Quality Control Board, pursuant to section 13267(b) of the CA Water Code, instructed PL to prepare a slope stabilization workplan for the quarry site in Freshwater to comply with the NPDES water pollution control and prevention plan. This resulted from an inspection of the quarry by staff, who found the quarry "is located at the head of a large slide feature" that is "approximately 3,000 feet long and extends from the quarry site down to the South Fork Freshwater Creek." They found that "Large stockpiles of spoils from the quarry have been placed at the head of the slide, loading the slide mass with additional weight which may have helped trigger recent movement." ... "The sidecast spoils have failed in close proximity to a Class II watercourse. Stockpiling spoils at this location has resulted in the discharge or threatened discharge of sediment to S. Fk Freshwater Ck." Poor drainage at the quarry site and along the access road has concentrated storm water runoff and resulted in rill and gully erosion that extend downslope from the Camp 12 road where it discharges sediment to the headwater of S. Fk. Freshwater Ck."

This order from Water Quality is attached as Exhibit I.

### **Winter Operations**

PL has been caught violating the FPRs habitually with regard to their winter operations. These violations are so commonplace that CDF has twice changed the regulatory language governing winter operations in an attempt to prevent further violations by PL. A quote from a CDF inspector highlights this: "After a series of high level meetings, open forums, discussions, etc, we still are having problems with compliance with winter rules on this ownership as they relate to winter hauling and sediment transport into watercourses. New language has been developed, which is supposed to be used in all new plans (for) ScoPac/PL. This language appears adequate on the face, but it is common to find that violations occur and the cessation of trucking only occurs when CDF arrives on site and points out sedimentation of Class III and Class II watercourses. The LTO's are quick to terminate operations when notified of the violations, but it is my growing experience that the cessation of hauling depends on CDF's presence on site, not through monitoring by LTO's...Using my personal experience as my guide, I would resist all proposed winter operations on this ownership due to the high incidence of road related violations noted on active inspections." 1-96-574, PHI Report, E. Rohl, CDF Forester. See Exhibit J.

PL has repeatedly been found hauling when conditions are adverse for water quality, and one time agency officials even observed them towing loaded log trucks up hills with other log trucks because it was too wet for them to get traction. Elmir Dudik, Water Quality, stated, "On two occasions at this point (WQ-1), a steep pitch of the appurtenant haul road, loaded logging trucks were witnessed having to be towed up by an unloaded logging truck and a log/front end loader." Jim Falls, DMG, wrote on the same incident "Migration of fines into watercourses appears to be a problem in this drainage. At location G4, the Class II watercourse was observed flowing moderately turbid at the time of the site visit. . . The watercourse was flowing clear above the roadway." See Exhibit K.

### **Overlogging**

Many of PL's violations stem from their seeming inability to stay within THP boundaries. PL clearcut 500 feet of a stream buffer on a Class II tributary to Freshwater and overlogged 800 feet of the stream buffer to Freshwater Creek itself, a coho spawning stream, during operations of THP 1-97-004. The CDF inspector warned them in October, 1997 that the markings were confusing in that area and issued a report which instructed them to take efforts to make it clear to the faller. Predictably, this was not done and "this resulted in approximately 500 feet of Class II WLPZ with all but a few trees removed" (CDF Inspection Report, October 5, 1998). This removed all of the shade canopy for this stretch of the Class II, and for a portion of a Class I at their confluence." The company deliberately concealed this violation from the CDF until the trees were bucked, yarded and hauled to the mill. See Exhibit L.

There have been countless other areas where PL has overlogged or logged outside THP boundaries. These include, but are not limited to, THPs 1-96-222, 1-93-068 and 1-94-376. (See Exhibit M) During operations of THP 1-96-035, PL logged outside the THP boundary which "effectively extend(ed) the clearcut to the watercourse" (CDF Inspection Report, 11/7/96). During salvage logging operations under 94EX-254, the company logged over half of the standing volume of trees, which is more than 5 times more than allowed under the law. See Exhibit B.

This year PL has been caught overlogging in watercourse areas on two other THPs. On 1-98-075, they cut "trees that were not designated for harvest in the plan. One of the...fallers felled a number of trees within an approximate 300 foot section of Class II WLPZ in Unit #3, of the plan, that were not marked for cutting with blue paint as specified." See Exhibit C.

On 1-97-212, the THP prescribed retaining 100 square feet basal area per acre in the WLPZ. Upon inspecting the area, CDF found the area was overlogged by these standards, and that only about 75 square feet basal area remained in the stream buffer. See Exhibit C.

In October, 1994, PL logged an old growth redwood tree that was located on Redwood State Park land. The tree was identified by State Park personnel during the inspection of a THP in the area, and he stressed that this tree was on State Park property and should not be logged. PL and State Parks settled for \$180,000. See Exhibit N.

## **Wildlife**

PL seeks permits from FWS and NMFS relating to protected wildlife. PL's violations of those parts of the FPRs dealing with wildlife demonstrate PL's "lack of responsibility" in this area.

PL burned and destroyed an osprey nest tree during site preparation work under THP 1-94-360. CDF issued a §1035.3(d) violation on August 18, 1996. In 1998, for a logging plan in the same area, PL misleadingly reported that there were active osprey trees in the watershed without revealing the violations. In the Preharvest Inspection report, the CDF Forester stated, "The RPF has provided incorrect information regarding osprey in this plan. Under Item #32, osprey discussion states 'a known Osprey nest site and perch trees were located, documented, and given protection.' The RPF should check the inspection record for 94-360, where he would find that four identified osprey trees were burned by the landowner during site preparation.. Two of those trees, one actively used by a nesting pair that season, were completely destroyed. The landowner was cited and was required to construct four replacement nest platforms. The status of these trees is unknown. Unless the RPF believes this treatment constitutes 'protection', he should revise his discussion of and maps for osprey." (March 23, 1998, THP 98-001, p. 8). See Exhibits F (THP 1-94-360), and O (THP 1-98-001).

During the marbled murrelet consultation for THP 1-97-112, the Department of Fish and Game requested survey data from two stations located near the plan area. PL submitted survey forms, which included no murrelet detections. There were two other surveys conducted, however, for which the company neglected to submit forms. These two surveys happened to have 25 detections, including some with occupied behavior. When this was discovered PL was forced to withdraw the plan. See Exhibit P.

During operations on THP 1-97-172, which is next to Grizzly Creek State Park, PL was found to have operated heavy equipment inside a protective buffer area that was being surveyed for the endangered seabird. CDF issued 2 violations of the FPRs on this THP. See Exhibit Q.

The Spotted Owl figures prominently on the list of protected species harmed by PL's unlawful acts, and DFG recently determined that illegal operations on two logging plans caused a "take" of Spotted Owls. These Spotted Owls lived at this site for the past several years and they have consistently reproduced every year at these locations. The DFG stated, "These two THPs did incorporate the

NSORP (Northern Spotted Owl Resource Plan) as enforceable under the THP. However, the THPs were not appropriately implemented. Therefore, it is likely "take", as defined by Section 919.10 (a) and (b), Title 14 CCR, has occurred." See Exhibit R.

On one of these logging plans, 1-97-004, PL harmed and harassed a spotted owl pair when they clearcut a large area that extends up to 185 feet of their nest site in the Freshwater Ck watershed. DFG stated "We witnessed clear-cut harvesting within the 1,000 foot zone of both the 1998 activity center (X) and the 1998 nest site (Y) where roosting habitat should have been maintained. During our October 13, 1998 review, we measured the distance from the 1998 activity center (X) to the edge of the clear-cut and found the distance to be 185 feet. Consequently, this confirmed (1) operations had occurred within 500 feet of an activity center (X), (2) unauthorized operations had occurred within 1,000 feet of an activity center during the breeding season (X and Y) based on the work schedule ScoPac gave to CDF and (3) roosting structure was not maintained within 1,000 feet of an activity center (X and Y). The criteria for functional roosting habitat is to maintain both an average 60% canopy in the 1,000-foot zone and to maintain a stand of trees averaging 11-inch diameter base height (dbh) to provide protection from predators and storms." Operations on 1-98-259, which is located in the vicinity and also includes areas that are within 500 feet of one of these nest sites, also encroached into the 1,000 foot protective buffer, when the company overlogged inside this buffer and brought heavy equipment into close vicinity of the nest tree. See Exhibit R.

In another recent incident PL used heavy equipment on a road immediately adjacent to a 1998 spotted owl nest tree, and "reconditioned" about 1000 feet of a road within 500' of the nest on THP 1-95-225. The FWS stated "These actions may have resulted in damage to the structural integrity of spotted owl habitat within 500' of the nest." See Exhibit R.

In addition to the violations related to water quality discussed above, PL has committed many other illegal acts which directly harmed Coho salmon. The company violated Section 1603 of the Fish and Game Code and the Water Quality Basin Plan during operations on THPs 1-97-401 and 1-97-428 when they did not install culverts at five locations that cross fish bearing streams and instead drove logging equipment, including fully loaded dump trucks, directly through the streams many times at each of these locations. The CDF Biologist reported that "the multiple crossings by pickups and other equipment at the identified crossings has resulted in a significant adverse effect to salmonid habitat and other aquatic life in Harmonica Creek, Pullen Creek and Bear River, and a significant adverse cumulative effect to Bear River." The CDF Biologist further stated that "The measures employed by the project proponent at the crossings consisted of wet fords and are well below any standard that would have been permitted by this reviewer. Had such a proposal been submitted to this reviewer a finding of significant adverse effect would have been made. This determination is based on several factors, including: (1) the wet fords may have resulted in the direct mortality of a listed species, coho salmon, and therefore triggered a "may effect" determination by the Department; (2) the wet fords would have (and did) resulted in significant adverse effects to salmonid habitat and other aquatic life; and (3) this increased sediment loading would have also resulted in significant adverse cumulative effects to Bear River, a system which has been acknowledged to have an existing significant adverse cumulative effects due to excessive sedimentation and lethal water temperatures." See Exhibit S.

The company has also presented incorrect and misleading statements that resulted in severe damage to coho habitat. When the company submitted THP 1-96-507 to the CDF, PL's forester submitted and certified as fact that the stream flowing through the area did not contain fish or fish habitat. It



was only after the company logged a great deal of canopy over the stream that agencies discovered that this was an inaccurate and materially misleading statement, and that the stream actually supports coho salmon and other fish. See Exhibit T.

### **Violations of the Endangered Species Act**

In November of 1992, PL cut occupied marbled murrelet habitat in Owl Creek. EPIC brought a citizen suit under the Endangered Species Act. After an 8-day trial the District Court found that Pacific Lumber's continued logging would cause take in violation of the ESA and enjoined further logging on the THP. The Owl Creek case provides ample evidence that PL suffers from a "lack of responsibility" in carrying out its operations in endangered species habitat. Most telling is the Judge's findings of the unreliability of PL's survey efforts:

Additionally, there is sufficient evidence in the record for the court to find that Pacific Lumber administered its marbled murrelet surveys at THP-237 with the intent to either avoid detecting marbled murrelets or, to the extent that making detections could not be helped, to grossly understate the marbled murrelets' presence in THP-237.

The District Court's findings were upheld by the 9<sup>th</sup> Circuit Court of Appeals. The District Court and 9<sup>th</sup> Circuit opinions are attached as Exhibit U.

### **Suspension of Timber Operating License**

In December of 1997, CDF announced they would not renew Pacific Lumber's license to log due to the number and severity of the violations they had incurred. CDF required the company sign a Stipulated Agreement, and a conditional license was issued to the company for the year. See Exhibit V. This license was contingent upon the company following the law, yet PL continued to conduct criminal logging operations. On November 9, 1998, after PL was found violating the FPRs almost 50 times and received four citations, CDF suspended the company's license for the remainder of the year. In so doing CDF stated: "This Memorandum documents violations demonstrating the basis for at least two more complaints, as well as, **violations involving gross negligence and willful disregard for the Forest Practices Act and the Forest Practice Rules.**" (Emphasis added) See Exhibit W. If willful disregard for the Forest Practices Act and Forest Practice Rules does not rise to the level of showing "lack of responsibility" it is hard to imagine what could.

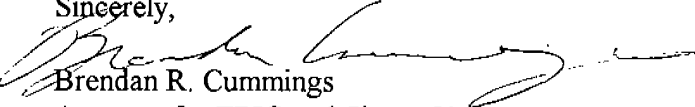
### **Conclusion**

Pacific Lumber's criminal logging operations detailed above are but a small sampling of the innumerable violations of State and Federal laws and regulations which the company routinely flaunts. PL now seeks a 50-year permit to kill endangered species. To be granted this privilege, PL must comply with all applicable laws. The terms of the proposed permit require monitoring and mitigation by PL. Yet PL's 300 plus FPR violations show it is incapable of carrying out its legally required mitigation on individual THPs, much less the entirety of its ownership. The permit sought also requires that PL conduct accurate surveys for protected species. The Owl Creek case shows that PL cannot be trusted to perform such surveys honestly or accurately. The recent spotted owl incidents show that even when species locations are well established, PL cannot be trusted to protect the

necessary buffers. PL's HCP purports to improve stream conditions on its landholdings. At the same time, half of PL's violations resulted or potentially resulted in impairment of stream conditions.

PL's history of illegal logging clearly show that PL does not meet the issuance criteria of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service as codified at 50 C.F.R. §§ 13.21 and 220.21 and 15 C.F.R. § 904.301. As such, PL's application for an incidental take permit must be denied.

Sincerely,



Brendan R. Cummings  
Attorney for EPIC and Sierra Club

# Maxxam/Pacific Lumber Company

Violations of the California Forest Practice Rules

1995 - 1997

The following chart outlines Forest Practice violations issued by the California Department of Forestry to the Pacific Lumber Company since 1995.

Please note this may not be an exhaustive list. Violations included in this chart total over 250 issued on more than 100 inspections on

74 timber harvest plans and 4 exemptions. The majority of these violations were issued for problems relating to erosion

control, and some caused landslides and damage to water quality that cannot be corrected.

THP #	Date	Loc't'n	Violation	Description
91-031	2/9/95	Blanton	913.5	Failed to submit stocking report

91-036	8/1/94	Eel	923.2(p)	LTO failed to install waterbreaks on non-permanent rd that doesn't have adequate drainage
			923.5(a)	LTO "deposited an excessive amount of waste fill on slopes greater than 65%"
			923.5(f)(4)	Excessive waste fill "extends more than 20 feet downslope & has not been treated to aid soil stability"
	8/3/94		1035.3(d)	Constructed layout in an excluded area. Failure to comply with THP
			914.2(f)(3)	Tractore operated on areas shown as a high erosion hazard area
	8/29/94		923.4	Corrective work for cleaning ditches on appurtenant road not completed
	3/2/95		4585	Failure to submit work completion/stocking report. Debris slide also found
	5/15/95		1090.12	Drainage pipe wiped out by debris slide still not replaced after being noted 2 1/2 months before
			914.6	waterbreaks not in compliance with contrction standards and spacing
			923.4(d)	a 12 inch culvert crushed and plugged

92-105	6/20/96	Booths Run	4587	Failure to submit work completion/stocking report
			4585	Failure to submit completion report

92-113	2/9/95	S Fk Yager	913.5	Failure to submit stocking report
--------	--------	------------	-------	-----------------------------------

92-375	2/2/96	Freshwater	923.4(c)	Wtrbreaks bladed & driven over so they weren't functioning-caused deep gully & almost blocked rd
			916.3	Skid trail on steep slope caused landslide which greatly degraded water quality.
			4585	Filed a completion report prior to completing the work

93-057	11/29/95	Freshwater	4585	Filed a completion report prior to completing the work
			914.6	Waterbreaks were not installed on several tractor skid roads
			916.3	Landing debris not removed and caused approx 1000 cubic yds of soil & debris to enter creek
			923.4(c)	Poor drainage found on several rds & landings. Rutting of rds, sediment fr skid trails & rds, etc observed
			923.5(f)(1)	Landing on slopes >65% used stumps in fill & caused major landslide. 1000 cubic yards entered Class II
	12/5/96		914.6	Inadequate waterbreaks
			1035.3(d)	Failure to comply with THP
	12/11/95		1035.3(d)	violations noted in previous inspections still not corrected -- failure to comply with THP
	12/14/95		914.6	Inadequate waterbreaks
			923.4	Inadequate road maintenance
			923.5	Pertains to landing construction on unstable slopes
			1035.3(d)	Failure to comply with THP and Forest Practice Rules

93-068	10/14/97	N Fk Elk River	1035.3(d)	Failure to comply with THP - "harvesting in excess of the THP standards..."
--------	----------	----------------	-----------	---

93-235	1/30/95	Grizzly/Stevens	4585	Completion report filed when additional erosion control work needed.
			923.5(f)	Perched woody debris & soil left on landing located on slope >65% contributed to failure & debris flow

93-336	12/30/94		923.2(f)	Failed to surface road to maintain a stable road surface
			923.6	Rd rutting caused because log trucks couldn't operate under own power & were pushed by loader

			923.4(e)	Failed to remove berms--caused wtr to be trapped on rd surface & discharged onto erodible soil
93-414	10/24/97	N Fk Elk River	4585	Completion report that was due one yr before still not submitted
			4587	Stocking not filed within 6 months of THP completion - THP expired Oct 22, 1996
93-501	1/12/96	N. Fk Elk River	923.4	Three areas of road failure - Inadequate road maintenance
			4585	Completion report returned
	6/13/96		923.4	Slide blockage still not removed since Jan 12, 1996 inspection
93-502	11/29/95	Freshwater	923.4(c)	failure to maintain drainage structures
			1035.3(d)	fill on landing over 65%, waterbars driven over, non-compliance with THP
			PRC 4585	Completion report
	12/6/95		923.5(f)(1)	Fill on landing on slope over 65% showing movement & signs of failure
	12/21/95		914.6(f)	Waterbreak installed on landing w/ major landslide feature that directed water into the head of slide
	4/11/97		923.4(c)	Seasonal road with no functional waterbars
	4/25/97		923.4(c)	Second notice of violation--Waterbreaks still not installed
94-043	11/22/95	Yager/Allen	917.3(d)	Failed to protect watercourse protection zones fr broadcast burning & they were completely burned
			1090.12(d)	Failure to comply with provisions of the THP and the Forest Practice Rules
	12/20/95		917.3(d)	Corrective work to help stop erosion in burned watercourse area not done
			1090.12(d)	Failure to comply with THP and Forest Practice Rules
94-102	2/11/96	N Fk Elk River	1040	Road changed to permanent without amendment or approval
			PRC 4585	completion report filed but work not completed--Crossing not removed on seasonal rd
94-132	2/11/96	N. Fk Elk River	914.6(f)	Waterbreaks can't effectively disperse surface runoff--other erosion controls are needed
			923.4	Waterbreaks not installed which caused road fill to fall and enter the watercourse

			4585	Completion report filed without work being completed
--	--	--	------	--

94-140	10/14/97	Strong's	914.6(b)	Failure to construct waterbars on roads
			1035.3(d)	Failure to comply w/ THP-Humboldt crossing not removed & energy dissipators not installed at culverts
			923.4(f)	Failure to maintain drainage ditches
			1039.1	Failure to extend the termination date of the THP to complete maintenance work

94-176	10/9/97	Pullen	923.4(c)	Waterbreaks and rolling dips were degraded and many failed from inadequate maintenance
--------	---------	--------	----------	--

94-212	9/5/97	Shively	4585	completion report
			914.6	Inadequate waterbreaks
			923.5(b)	Landing fill was perched on slope without a supporting bench and caused failure
			923.5(c)	Organic material buried in the fill

94-253	2/25/97	Larabee	923.4(i)	Plugged undersized culvert diverted wtr over rd. Rd & crossing fill was eroding into wtrcourse
			923.4(j)	Water fr inside ditches being diverted onto road and carrying sediment into wtrcourse
			923.4(c)	Failed watercourse crossing not repaired or replaced
	7/25/97		923.2	Road construction problems
			1035.2(c)	Road and landing problems

94-260	10/31/95	Jordan	923.4(j)	failure to properly drain inside ditches
			923.4(c)	deficient waterbars
			914.5(b)	large amount of trash left on site
	10/4/94		923.3(n)	Road not adequately drained; water running down rd and two significant bog holes developed.

94-270	7/8/96	Newman	923.4(m)	Energy dissipator not installed at outlet of culvert caused erosion of the road fill into creek
			1035.3(d)	Failure to comply with THP

94-348	10/24/97	N Fk Elk River	4585	No completion report submitted
--------	----------	----------------	------	--------------------------------

94-360	9/19/97	N Fk Elk River	923.5(f)	Unstable soli sidecast along landing face on slope >65%
			916.3	Several hundred cubic yards slide into N Fk Elk
			916.4(c)	Crossing not pulled, failed
			916.3	Material then allowed to pass into river in amounts damaging to water quality
			923.4(k)	1000 ft long mudflow into N Fk Elk from landing failure at site PL was told to fix
			923.4(k)	Slide into a tributary of N Fk Elk along a temporary road
			923.4(k)	Another slide into a tributary of N Fk Elk along a temporary road
			916.4(c)	Did not remove a temporary culvert per the THP before winter period
	7/17/97		1035.3(d)	Inadeq drainage & maintenance caused fill failure. All other wk finished 1 yr before except rd work.
	8/10/96		1035.3(d)	Killed osprey nest tree; Inadeq wtfbreaks; notes slide & other place where mitigation didnt stop failure

94-372	4/8/97	Dauphiny Ck	923.2 (h)	Failure to properly install a stream crossing resulting in sedimentation in creek
			923.4 (l)	Failure to maintain culverts resulting in blocked culverts
			923.2 (k)	Overhanging banks (soil material) were not backslotted to a stable angle

94-376	5/22/95	N. Fk Elk River	1035.3(d)	Logging outside THP boundary
			1035.3(b)	Failure to familiarize all employees with the intent and details of the operational measures of the plan.

94-523	6/25/96	Little Frshwatr	923.2(n)	Failed to install culverts
--------	---------	-----------------	----------	----------------------------

94-545	10/24/96	Cooper Mill	923.4	Failure to install and maintain drainage structures, identified 3 culverts that needed to be removed
--------	----------	-------------	-------	--

94-558	3/20/96	Yager	914.6	Culvert draining onto skid trails--caused waterbar failure & deposited sediment onto flood plain
			916.4(c)(3)	Wtrcourse protection area breached by tractors--perched material overhanging wtrcourse
			923.2(f)	Organic material not rem'd prior to placement of fill--uncompacted fill threatened to enter creek
			923.2(g)	Beneficial uses of water threatened by placement of road construction materials
			1035.3(d)	Failure to comply with THP--rds within watercourse protection area not treated for erosion control

94-594	5/15/95	Eel/Kiler	916.3(b)	Mud was dumped directly in class I & lg piles of soil were left in WLPZ after lg amount of rd was bladed
--------	---------	-----------	----------	--

94EX-254	2/23/95	Yager	916.3	Failure to fell trees away from fish bearing stream in two places
			1038	Approx 55% of standing volume of trees were cut (equalled about 4.3 acres) Rules allow only 10%

95-002	3/5/96	Yager	916.4(e)(3)	Soil and debris in Class III watercourse at Point 1
			1035.3(d)	Work agreed to not done - failure to comply with THP
			916.4(e)(3)	Soil and debris in Class III watercourse at Point 2
			923.4(i)	failure to maintain watercourse crossing
			916.4(e)(3)	Soil and debris in Class III watercourse at Point 3
			923.4(i)	failure to maintain watercourse crossing
			923.4(m)	Culvert Installed so it drains onto skid trails--destroyed wtrbreaks for 475 ft & caused erosion
			914.6(f)	skid trail locations make it impossible to comply with the rule
			1035.3(d)	Failure to comply with THP - tractors skidded trees down swales and unclassified watercourses
			923.4(f)	Inadequate drainage structures at two locations were overtopped by water
			923.4(i)	drainage ditches not maintained and caused erosion
			923.4(k)	cut bank failures were discharging into watercourses by means of drainage ditches
			923.4(i)	drainage structures and trash racks not maintained and caused failure to occur
			923.4(m)	Inadequate maintenance
			923.4(n)	Inadequate maintenance caused water to be diverted and run down road
			1035.3(d)	failure of LTO to follow THP



95-075	3/8/96	Lawrence	914.6	Waterbreak erosion controls ineffective in controlling deposition of sediment into watercourses
			923.4	Maintenance of rds--water diverted onto head of slide, undersized pipes caused fill failures, erosion
	10/24/96		923.4(c)	waterbreaks not maintained

95-097	1/29/96	N Elk River	1035.3(d)	hauling during rain, violation of winter operating plan
			923.4	failure to maintain roads
			923.6	hauling when road not firm and passable
			1035.3 (d)	winter op violation, non-compliance w/ THP
			1039	no amendment filed for substantial deviation; continued after rains
			1040	no minor amendment filed; change from seasonal to permanent road
			1040	failure to properly indicate responsibility for conduct of operations
			1035.2	conduct has been under guidance of RPF C. Newman

95-139	12/11/95	Freshwater	923.5(f)(3)	4-12" mud & water on landing; landings not sloped or ditched to prevent water from accumulating
			1035.3(d)	deeply rutted road channeled water over 300 feet; non-compliance w/ THP
			914.6	ruts on over 300 feet of road surface; ineffective waterbars constructed
			923.4(c)	insufficient maintenance of waterbars

95-155	10/29/97	Freshwater	1035.3	Failure to comply with THP which required waterbars at 75 foot intervals on a specific road.
--------	----------	------------	--------	--

95-162	6/23/97	Bear Ck	923.4(c)	Failure to install waterbars
			1035.3(d)	Failure to comply with THP - did not block rd as required

95-168	1/22/96	Dunlap Gulch	923.4	Failure to maintain roads to prevent water quality degradation
			1035.3(d)	Timber hauling on saturated roads: failure to comply with THP
			1040	Minor deviations not reported; no cable-yarding LTO had been designated

95-185	10/23/96	N Fk Elk River	923.6	Hauling in conditions that caused damage to water quality in Lawrence Ck)
	11/5/97		914.5(b)	Failure to install waterbars
			923.5(f)(1)	Landing is overhanging on edge—the overhanging debris is upslope of Elk River
			916.3(c)	Failure to install waterbars on a tractor road next to a stream

95-240	12/26/96	Freshwater	923.4(f)	Oversteepened & unstable fills along landings & rds; unstable material on slopes >65% not pulled bk
			923.2(p)	Waterbars damaged

95-244	11/4/97		914.5(b)	Failure to dispose of non-biodegradable debris
			923.4(f)	Failure to maintain drainage structures and trash racks
			923.5(f)	Unstable soil was not removed from landing on slope over 65%

95-265	8/22/96		916.3(b)	Heavy amount of slash in and around wtrcourse & shade canopy reduced below min for 200 ft
			923.4(d)	One culvert crushed and one culvert partially plugged—failure to maintain culverts
	9/23/96		916.4	Corrective wk for violations not complete—lg concentrations of slash remained in the watercourse

95-320	10/24/97	Shively Ck	923.2(h)	Natural drainage patterns disrupted, stream diverted
			923.5(a)	Failure to remove perched fill on the edge of a landing on a slope greater than 65%
	5/15/96		923.2(f)	Organic material in fills and inadequate fill compaction caused failures
			923.2(h)	Improper culvert installation caused erosion of fill at Point 1
			923.4(d)	Culvert blocked by debris, causing water to run across rd fill and erode it into a creek
			923.2(h)	Culvert installation is flowing water under the culvert at Point 3

95-326	12/13/96	Greenlaw	923.4(f)	Inside ditch filled with debris—water overtopped the ditch and flowed across the road.
	2/9/97		923.4(f)	Problems noted in earlier inspection uncorrected. Debris still fills the ditch & wtr cont to flow across rd
	10/29/97		914.5(b)	Failed to remove trash and debris from logging operations

95-412	2/6/97	Freshwater	914.5	failure to install waterbars
			923.4	inside ditch plugged by logging slash; failed to clean ditch

95-416	11/4/97	Kiler	1035.3(d)	Trash rack not installed at crossing - failure to comply with THP
			923.4(j)	Ditch had fir top and limbs deposited into it and was not cleaned out
			923.4(c)	Waterbreaks on seasonal road degraded to the point where they were not longer functional
			914.6	waterbreak maintenance

95-528	11/5/97	Dinner	923.4(d)	A 12 inch culvert was plugged
			4585	Completion report

95-566	1/10/97	N Fk Elk River	1035.3(d)	Failure to comply with THP - logged more than allowed
	11/4/97		923.4	Inside ditch plugged by logging slash; failed to clean ditch

95-576	5/9/97	Blue Slide Ck	914.2 (e)	slash and debris in stream
			914.6	failure to maintain waterbars at several locations
			923.2 (g)	failure to deposit and stabilize excess soil so it will not adversely effect water quality
			923.3 (i)	organic material (slash, stumps, debris) incorporated into road fill
			923.5(f)(4)	failure to secure sidecast perched over a stream
			923.5(f)(1)	failure to remove overhanging soil from the edge of a landing

95-580	11/21/96	Yager	1035.3(d)	Hauling cont. during saturated conditions & was visibly increasing turbidity of Class II whtrcourse
			923.4(h)	375 ft of rd was rutted to a depth of 4 to 6 inches and running surface was covered with mud

96-034	11/26/96	Freshwater	914.6(a)	1/2 mile of seasonal road without waterbars
			914.6(f)	poorly placed waterbars discharging muddy water directly into a creek and not dispersing runoff

				923.5(f)(3)	Improper landing drainage
96-035	11/7/96	Freshwater	1035.3(d)		logging outside boundary "effectively extending the clearcut to the watercourse."
96-040	3/4/97	Freshwater	923.6		Hauling on wet road, visible increase in turbidity. "unwillingness to comply w/ basic resource protect."
	10/29/97		914.6(b)		failed to install waterbars and to make repairs on seasonal road after completion
			914.5(b)		piles of refuse and debris left: grease containers, etc.
96-057	3/13/97		1035.3(d)		Class II spring drained directly across the road and discharge saturated steep slopes below
96-083	12/23/96	N Fk Elk River	923.1(e)		Amendment to build an additional road was approved but when built it was on too steep a grade
			1040		Failure to submit minor amendment
96-086	3/19/97	Freshwater	1040		Failure to notify of change in contractor
	4/2/97		1035.3(d)		promised culvert not installed--failure to comply with THP
			1035.3(d)		rolling dip not installed--failure to comply with THP
			1035.3(d)		Inadequately sized culvert not replaced resulting in sediment into creek: failure to comply w/ THP
			923.3		culvert not installed, diverted creek on road for 100'
			923.4(f)		ck diverted into inside ditch, serious downcutting-3' gully for 200'; inadequate drainage structures not removed
			923.4(c)		Waterbars breached by traffic during wet weather
			914.6(d)		no waterbars for more than 350' on a tractor skid trail; failure to install adequate waterbars
96-123	12/20/96	Freshwater	923.4(k)		No action was taken to prevent failures of cut slopes from discharging materials into watercourse
			1035.3		After 2 days with 8" rain, full scale hauling on wet roads--non-compliance with THP
			923.2(h)		Inadequate drainage structures
	12/19/96		915.3		A fir tree had been felled into Class II watercourse and was not removed

96-125	11/20/96	Bear River	923.4	Erosion control devices on haul road were inadequate
96-172	11/4/97	Twin	923.4(d)	Failed to keep a culvert open--this was noted a year ago & still not fixed
			923.4(c)	Failure to maintain drainage devices
			923.2(a)	Failed to provide drainage structures--didn't install wtrbars--only "remnants" of inside ditch remain
			923.4(i)	Failed to maintain ditches on appurtenant road--water will folw down road
96-188	10/8/97	Bear River	923.4(j)	Failed to keep ditches clean to allow unrestricted passage of water
96-222	9/5/97	Freshwater	913.3(a)(3)	2 ac cc instead of thinned
	7/21/97		1035.3(d)	Failure to comply with THP--overlogged
96-244	3/4/97	Freshwater	1035.3(d)	Cont ops on saturated rd despite warning: "implies unwillingness to comply w/ basic resource protect"
	11/4/97		914.5(b)	Failure to dispose of trash
			923.4(1)	Failure to maintain drainage structures
			923.5(f)	Failure to remove unstable soil from a landing on a slope greater than 65%
96-282	2/4/97	Bear River	1035.3(d)	Hauling operations continued when it caused sedimentation and increased turbidity of watercourse
	2/11/97		923.4(i)	failure to maintain inside ditch for free passage of water; pipe used to hide muddy flow
96-406	3/20/97	N. Fk Elk River	923.6	Loaded log trucks were pulled up steep rd because it was so wet it could not get up on its own
	11/21/97		923.4(i)	Drainage structures were obstructed and not maintained to provide adequate capacity
			923.4(m)	Adverse effect to water quality caused by inadequate drainage
			1035.3(a)	Hauling under saturated conditions caused visible damage to wtr quality - failure to comply
			916.3	Slide took out portion of rd & was reconstructed w/out approval. Reconstructed portion also failed
96-414	8/4/97	Yager	1035.3(d)	Culvert not installed and inside ditch not installed--causing water to drain onto landing

96-415	10/29/97	Bear River	1035.3(d)	Failed to mulch and seed exposed soil as required by THP
	2/4/98		923.4(d)	Culvert "heavily buried by sediment." Wfr was diverted to inside ditch that could not carry the flow.
			923.4(f)	Drainage ditch not maintained to allow free flow of water & minimize soil erosion

96-471	9/10/97	Larabee	916.3	A bridge collapsed under the weight of heavy equipment and caused a petroleum spill in the creek
--------	---------	---------	-------	--

96-507	10/30/97	Wolverton G.	923.2	Improper placement of culvert
--------	----------	--------------	-------	-------------------------------

96-509	10/28/97	N Fk Elk River	914.6	Breached waterbars
			923.4(c)	Waterbars not maintained

96-544	1/15/98		923.4(d)	Culvert plugged & not allowing free flow of water
--------	---------	--	----------	---

96-548	11/4/97	Bear River	914.3(a)	Cable lines for yarding caused excessive damage to residual stand
			914.6(b)	Failed to construct waterbreaks upon conclusion of logging operations
			923.4(m)	Inside ditch not adequately drained
			1035.3(d)	Perched slash on landing above 115% slopes was not removed

96-574			916.3(b)	Failure to immediately remove depositions of slash from a Class II watercourse
			923.4(h)	Failure to maintain a stable road surface during ops. Rd classified as permanent is not all seasonal.
			1035.3(d)	Failure to comply with the rules, act, regulations and applicable THP

96EM-033	6/18/97		4585	
			914.6	

96EM-02	7/18/96	Yager Creek	4585	Failed to submit completion report
---------	---------	-------------	------	------------------------------------

96-784 EX	3/6/97	Freshwater	923.6	Failure to cease ops during saturated conditions-empty truck was pulling a loaded truck up steep rd
			914.7	Failure to limit tractor yarding to dry rainless periods when soils are not saturated
	3/13/97		923.4 (a)	Failure to maintain culverts in multiple locations
			923.4(c)	Failure to maintain waterbars (Up to 80% failed on one section of rd and 50% failed at another)
	10/9/96	Bell/Lawrence	11035(b)(7)	Ops in known occupied murrelet habitat damaged trees as prohibited by terms of consultation.

97-004	10/31/97	Freshwater	914.5	failure to install waterbars
			914.6	breached waterbars
			923.4	failure to maintain waterbars
			923.5	landings not properly drained
			1035.3	operating during wet weather and allowing sediment to reach a stream
			923.3	culvert not installed as per THP

97-093	9/26/97	Freshwater	918.1	Fire hazards not reduced
--------	---------	------------	-------	--------------------------

97-263	12/12/97	Eel River	1035.3(d)	road operations during wet weather allowed sediment to reach a stream - failure to comply with THP
--------	----------	-----------	-----------	--

# Pacific Lumber 1998 Violations

93-537	5/29/98		923.5(d)	Three culverts were plugged—"pipes appear to have inadequate grade..."
--------	---------	--	----------	--

94-594	5/29/98	Monument/Eel	923.4	Failed waterbars
--------	---------	--------------	-------	------------------

95-122	6/4/98	Monument/Eel	923.4(d)	Culverts were clogged
--------	--------	--------------	----------	-----------------------

95-126	7/28/98	N. Fk Elk River	923.5(f)(1)	Failure to remove unstable landing materials on slopes over 65%
			923.2(k)	Construction of logging roads with overhanging banks
			1035.3(c)	Failure to implement adequate road drainage
			1035.3(d)	Failure to install culverts at two sites

95-326	6/18/98	Greenlaw/Eel	914.6(a)	Failure to install waterbreaks on skidtrail prior to winter season—went thru entire winter w/o waterbreaks
--------	---------	--------------	----------	--

95-345	6/4/98	Twin Ck/Eel	923.4(d)	Culverts were plugged
			1035.3(d)	Commercial thinning area was burned in violation of the plan

95-416	5/29/98	Killer Ck/Eel	923.4	Failure to install waterbreaks
--------	---------	---------------	-------	--------------------------------

96-282	6/23/98	Bear River	923.4(d)	Culvert was plugged because "road construction triggered movement"
--------	---------	------------	----------	--

96-406	3/26/98	N. Fk Elk River	923.4(k)	No action taken to prevent additional fill failure that was noted in 12/9/97 inspection
--------	---------	-----------------	----------	---

96-415	2/10/98	Bear River	923.4(d)	Culvert "nearly buried by sediment"
			923.4(j)	



	5/29/98		914.6(f)	Waterbreaks had failed
96-500	5/29/98	Dinner/Eel	914.6(e)	Failure to install waterbreaks
96-507	1/23/98	Wolverton	923.2(f)	Culvert failed & rd fill eroded into creek due to poor compaction; organic material in fill
			923.4(h)	Estimated 3/4 mile of steep unsurfaced rd was shedding road surface material into creek
96-544	1/15/98		923.4(d)	"Culvert outlet was buried under road sidecast and slash"
96-574	6/24/98	Bear Ck/Eel	923.5(f)(1)	LTO deposited landing slash on slopes greater than 65% above a Class II stream
97EM-038	7/14/98	Freshwater	914.6(a)	Failure to install waterbreaks
			923.5(f)(1)	Failure to remove unstable concentrations of slash perched on landings
	7/23/98	Freshwater	4585	Submission of a completion report prior to the work required by the rules being completed
97-004	9/29/98	Freshwater Ck	1035.3(d)	LTO didn't supervise employees & allowed 500' of Class II watercourse to be clearcut
			916.3(e)	"Several" trees were felled across the Class II stream
			1035	Failure to have an RPF mark the WLPZ in conformance with the approved plan which caused clearcut
97-172	9/18/98	Grizzly Ck	1035.3(d)	Tractors operated within 1/4 mile of murrelet survey area prior to end of breeding season
			1040	Failure to report Minor Deviation to CDF
97-212	8/21/98		1035(d)	Overlogging in watercourse
97-247	3/17/98	Freshwater	913.1(a)(2)(E)	Off-site mitigation for exceeding the 30 acre clearcut block size has not been identified or done
97-263	1/6/98	Eel River	923.2(h)	Improper culvert installation

97-292	9/29/98	Dinner/Eel	923.4(h)	Road was not watered for dust abatement. "I viewed a dust cloud from this op from Hwy 101"
97-401	10/9/98	Bear River	1035.3(d)	Culverts weren't installed on fish bearing stream & tractors-loaded dump trucks drove thru repeatedly
97-428	10/9/98	Bear River	1035.3(d)	Culverts weren't installed on fish bearing stream & tractors-loaded dump trucks drove thru repeatedly
97-472	6/17/98	Atwell/Eel	1035.3(d)	Sidecast was deposited onto an unstable feature
			916.3	Large piles of dirt were deposited close to streams
97-484	9/11/98	Larabee/Eel	923.4(h)	Logs were being hauled on roads that did not have dust abatement
98-075		Bridge Ck/Eel	1035.3(d)	Overlogged in watercourse-trees within a 300' section of Class 2 that were not marked were logged
98-230	10/1/98	Bear River	923.4(h)	Dust abatement—"dust to a depth of 8" was observed...log decks were covered by a thick layer"
			916.3(b)	Failure to remove logging slash from a Class II immediately upon deposition